

The reply filed on Oct. 27, 2008 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): The restriction requirement dated Aug. 27, 2008 stated that "Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election." (page 3, paragraph No. 4). The restriction requirement further stated that "Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention." However, no provisional species election was made.

A telephone call was made to Janet Cord on Jan. 15, 2009 to request an oral election to the above restriction requirement, but Ms. Cord could not be reached.

Applicants are advised that the examiner has not removed the species election requirement at this time, despite the cancellation of claims 28, 30, 31, and 36-40. Additionally, it is noted that claim 41, which recites species of lipophilic and hydrophilic surfactants and was included in the species election requirement, has not been cancelled. Applicants are required make a provisional species election as set forth herein.

For Group I, the species are as follows:

- Active ingredient (claims 28-31)

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- Hydrophilic surfactant (claims 36, 37, 40, and 41)
- Lipophilic surfactant (claims 38, 39, 40, and 41)
- Other component (claim 43)
- Oily component (claim 44)

Should Group I be elected, applicant is required to specify a single active ingredient recited within one of claims 28-31, a single hydrophilic surfactant recited in claim 36, a single lipophilic surfactant recited in claim 38, a single other component recited in claim 43, and a single oily component recited in claim 44. It is also requested that applicants provide any known common or trade name(s) of the elected compounds. A proper species election will facilitate future examination on the merits of the claims.

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicants are given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

KSO

/David J Blanchard/
Primary Examiner, Art Unit 1643